

IN THE UNITED STATES DISTRICT COURT
 FILED FOR THE _____ DISTRICT OF _____
 U.S. DISTRICT COURT _____ DIVISION
 (Write the District and Division, if any, of the
 2016 SEP -9 12c510t in which the complaint is filed.)

RECEIVED CLERK
 JUL 18 2016
 U.S. DISTRICT COURT

DISTRICT OF UTAH

RAMIRO MARQUEZ-DURAN
 DEPUTY CLERK

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

SALT LAKE COUNTY ETAL
(UNKNOWN INDIVIDUAL JAIL STAFF)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights

(Prisoner Complaint)

Case No. _____
 (to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
 (check one)

Case: 2:16cv00805

Assigned To : Waddoups, Clark

Assign. Date : 7/18/2016

Description: MarquezDuran v. Salt Lake County Jail

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name RAMIRO MARQUEZ

All other names by which you have been known:

NONE

ID Number # 74113-008

Current Institution USP ATWATER

Address PO Box # 19001

ATWATER, CA 95301

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name SALT LAKE COUNTY ETAL UNOWN DEPUTIES

Job or Title
(if known) MUNICIPALITY

Shield Number NA.

Employer NA.

Address _____

☒ Individual capacity

☒ Official capacity

Defendant No. 2

Name UNKOWN DEPUTIES

Job or Title
(if known)

Shield Number

Employer

Address

#① DEPUTY AT JAIL - UNKNOWN NAME

NA

SALT LAKE COUNTY - SHERIFF

☐ Individual capacity

☐ Official capacity

Defendant No. 3

Name

Job or Title
(if known)

Shield Number

Employer

Address

#② DEPUTY AT JAIL - UNKNOWN NAME

" " " "

NA

SALT LAKE COUNTY - SHERIFF

☐ Individual capacity

☐ Official capacity

Defendant No. 4

Name

Job or Title
(if known)

Shield Number

Employer

Address

#③ DEPUTY AT JAIL UNKNOWN NAME

" " " "

NA

SALT LAKE COUNTY - SHERIFF

☒ Individual capacity

☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

FIFTH, EIGHTH AND FOURTEENTH AMMENDMENT,
AND PENDANT STATE CLAIMS OF ASSAULT-BATTERY OR
NEGLIGENCE.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

NA.

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

AS COUNTY SHERIFF DEPUTY AND COUNTY CUSTOM'S
THE DEFENDANTS ACT UNDER COLOR OF UTAH STATE LAW,
WHEN THEY VIOLATE MY RIGHTS.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee

- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

AT SALT LAKE COUNTY JAIL IN NOVEMBER 2013, STAFF
MAGED ME IN MY FACE IN A HOLDING CELL WITH TWO MEN
STAFF BROKE MY RIBS AND CUT MY HEAD; NOT IN FBOP

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

AS STATED ABOVE THE CLAIMS AROSE IN SALT LAKE
COUNTY JAIL, NOVEMBER 2013 ABOUT 9:00pm, AT
HOLDING CELL, SEVERAL STAFF MAGED ME AND ASSAULTED ME.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

ON ABOUT NOVEMBER 13th 2013 AT ABOUT 9:00pm

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

SALT LAKE COUNTY PUT ME IN A CELL, DEPLOYED MACE TO
MY FACE. WHEN I WENT TO TOILET TO WASH MY EYES,
OFFICERS OR INDIVIDUALS OF THE COUNTY ENTERED WITHOUT

SAYING ANYTHING, ENTERED THE CELL AND THREW ME ON FLOOR. ABOUT 3-4⁺ INDIVIDUAL STAFF ASSAULTED ME. THEY BROKE 4 RIBS AND CUT MY HEAD, BEFORE BEING TAKEN TO THE HOSPITAL - (SEE AFFIDAVIT AND EXHIBITS).

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

FOUR BROKEN RIBS, AND BRUISED BODY, WITH MULTIPLE LACERATIONS ON MY HEAD WHICH DID REQUIRE STAPLES, AND RESULT IN SCARS. - (SEE MEDICAL RECORDS), - (ALSO SEE AFFIDAVIT)

ALSO I AM SUFFERING TRAUMA AND EMOTIONAL ANGUISH, AS I WAS NOT DOING ANYTHING WRONG. I HAVE LARGE SCARS ON TOP FRONT OF MY HEAD NOW.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

MONEY DAMAGES OF \$75,000 AND PUNITIVE DAMAGES FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS OF \$25,000, TOTAL \$100,000 ACTUAL DAMAGES. *

* ALSO, I WISH TO STAY IN UNITED STATES, AND BE GRANTED VISA.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

SALT LAKE COUNTY, UTAH

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☒ Do not know NONE PROVIDED

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know NONE PROVIDED

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No I WAS MOVED A FEW DAYS AFTER RETURNING FROM HOSPITAL-

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No I COMPLAINED, AND IT WAS BROUGHT UP IN USCOURT.

E. If you did file a grievance:

1. Where did you file the grievance?

NA

2. What did you claim in your grievance?

NA

3. What was the result, if any?

NA

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (*Describe all efforts to appeal to the highest level of the grievance process.*)

NA

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

UPON RETURNING FROM HOSPITAL, I WAS
MOVED TO ANOTHER CUSTODY. WHILE AT
SALT LAKE COUNTY JAIL, NO GRIEVANCE
WAS MADE AVAILABLE, AND I WAS AFRAID.
I WAS TOO MESSED UP, AND INCAPACITATED.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I TOLD MY ATTORNEY, AND ANYBODY
WHOM WOULD ASSIST ME, THAT I DIDN'T
HAVE TO WORRY WOULD SET ME UP TO
BE ASSAULTED OR KILLED, AS I'M ILLEGAL IMMIGRANT.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

IF AN ADMINISTRATIVE REMEDY PROGRAM EXISTED IN
SALT LAKE COUNTY JAIL, AND MADE AVAILABLE, I
WOULD HAVE USED IT, TO GET A DOCUMENTED REPLY!

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.) THE AFFIDAVIT ATTACHED
EVIDENCES, I WAS STILL INCAPACITATED WHEN RETURNED
FROM HOSPITAL, DUE TO ASSAULT. NO GRIEVANCE WAS PROVIDED.

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

NA

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

NA

Defendant(s)

2. Court *(if federal court, name the district; if state court, name the county and State)*

NA

3. Docket or index number

NA

4. Name of Judge assigned to your case

NA

5. Approximate date of filing lawsuit

NA

6. Is the case still pending?

☐ Yes

NA

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

NA

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

NA

2. Court *(if federal court, name the district; if state court, name the county and State)*

NA

3. Docket or index number

NA

4. Name of Judge assigned to your case

NA

5. Approximate date of filing lawsuit

NA

6. Is the case still pending?

☐ Yes

☐ No

NA

If no, give the approximate date of disposition. NA

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

NA

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11. SWORN AS TRUE UNDER TITLE 28 USC 1746 -

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5-10, 2016

* Signature of Plaintiff Ramiro Marquez Duran
 Printed Name of Plaintiff RAMIRO MARQUEZ-DURAN
 Prison Identification # 74113-008
 Prison Address USP ATWATER, P.O. Box #19001
ATWATER, CA 95301
 City State Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney NA
 Printed Name of Attorney _____
 Bar Number _____
 Name of Law Firm _____